

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SAMUEL B. SPITALNY, JACOB L.)
SPITALNY, STEPHEN QUILLINAN and)
S&Q DATA LLC,)
Plaintiffs,)
v.)
NICHOLAS FIORILLO and)
GOTSPACE DATA EQUITY FUND,)
LLC,)
Defendants,)
AND)
NICHOLAS FIORILLO,) Civil Action No: 1:22-cv-11413
GOTSPACE DATA EQUITY FUND,)
LLC, GOTSPACE EQUITY FUND I,)
LLC, GOTSPACE EQUITY FUND 1, LLC,)
GOTSPACE SELF STORAGE,)
HOLDINGS, LLC, GOTSPACE)
MANAGEMENT, LLC, GS BEVERLY,)
LLC, GS GLOUCESTER, LLC,)
GOTSPACE BEVERLY, LLC,)
GOTSPACE GLOUCESTER, LLC, and)
OCEAN INVESTMENT HOLDINGS,)
LLC,)
Reach and Apply Defendants.)

)

OPPOSITION TO MOTION TO DISQUALIFY

With ritual regularity, defendant Nicholas Fiorillo (“Fiorillo”) moves to disqualify opposing counsel to drive up costs and otherwise harass his litigation opponents. Indeed, the Massachusetts Superior Court denied numerous motions to disqualify undersigned counsel in this very case. *See* Paper Nos. 62, 98, 99, 103 in Superior Court Action No. 2184CV02894; *see*

also *BS1 254 Westfield LLC vs. Fiorillo*, 1:22-cv-11394-DJC (Doc. No. 18). Like virtually all of Fiorillo's motions, this latest motion to disqualify is frivolous. The statements that "Attorneys Brier and Peters have been sharing confidential and privileged information arising from prior representation, consultation(s), collaboration, potential representation(s) and joint and several legal action(s) and work out efforts on behalf of Mr. Fiorillo..." Memorandum, p. 3 and that they are "former attorneys of Defendant," p. 5 are bald-faced lies.¹ In fact, Gesmer has never represented Fiorillo, offered him legal advice, or obtained confidential information from him. Affidavit of Kevin Peters, attached as *Exhibit A*, ¶¶ 2-4.² Fiorillo offers no admissible evidence to the contrary; rather, he relies exclusively on his false, unsworn, and nebulous allegations.

Fiorillo apparently believes that his lies are justifiable on the ground that undersigned counsel represent S&Q Data, LLC, an entity that owns a stake in Gotspace Data Equity Fund I, in which Fiorillo also owns an interest. But that plainly is not the basis for disqualification: it is black letter law that "[a] lawyer who represents a corporation or other organization does not, by virtue of that representation, necessarily represent any constituent or affiliated organization, such as a parent or subsidiary." Mass.R.Prof.C. 1.7, comment 34. This motion represents a bad faith, fraudulent litigation tactic, and must be denied.

¹ So are many of Fiorillo's other allegations. For example, Attorney Peters did not assault him and his wife during the June 6, 2022 court-ordered deposition; rather, it was the other way around. Fiorillo is currently facing charges related to the incident in the Boston Municipal Court. Similarly, there is no evidence whatsoever of the supposed "criminal enterprise" that Fiorillo alleges.

² Attorney Peters signed this affidavit as part of the opposition to an earlier motion to disqualify.

Respectfully submitted,
Samuel B. Spitalny, Jacob L. Spitalny,
Stephen Quillinan, and S&Q Data, LLC

By their attorneys,

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Dated: October 26, 2022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon all counsel of record by Electronic Court Filing and by electronic mail to Nicholas Fiorillo on October 26, 2022.

/s/ Michael Brier